

REMARKS

I. Summary of the Examiner's Action

A. Claim Rejections

As set forth in item # 1 on page 2 the February 6 Office Action, claims 54, 60 – 63, 67 and 68 stand rejected under 35 U.S.C. § 102(e) as being anticipated by United States Patent Application Publication No. 2003/0074443 to Melaku *et al.* (hereinafter “Melaku” or “the Melaku application”).

As set forth in item #2 on page 2 of the February 6 Office Action, claims 55 - 58 and 64 - 66 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Melaku in view of United States Patent No. 6,618,763 to Steinberg. (hereinafter “Steinberg” or “the Steinberg patent”).

As set forth in item # 3 on page 2 of the February 6 Office Action, claim 59 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Melaku in view of United States Patent Application Publication No. 2002/0023092 to Tamura *et al.* (hereinafter “Abrams” or “the Abrams application”).

These rejections are respectfully disagreed with, and are traversed below.

II. Applicant's Response – Claim Rejections

A. Rejection of Claims 54, 60 – 63, 67 and 68 under 35 U.S.C. § 102(e)

Applicant reproduces claim 54 (as amended) here for the convenience of the Examiner (emphasis added):

54. A user content delivery method comprising:
at an agent resident on a network element in a network,
establishing a set of user content delivery preferences relating to
user content to be delivered at a future time, wherein the set
of user content delivery preferences comprises at least one
of delivery time and delivery cost;
receiving a request from a wireless terminal connected to the
network, the request directed to the user content for which
user content delivery preferences have been established;
sourcing the user content in response to receiving the request;
selecting, based on said set of user content delivery preferences,
between at least two network over which to deliver said
user content from the agent to the terminal; and
scheduling delivery of the content from the agent to the terminal
over the selected network.

Applicant respectfully submits that that the emphasized subject matter of claim 54 is neither described nor suggested by the relied-upon references, whether taken singly or in combination.

In particular, Applicants have now amended claim 54 to recite “establishing a set of user content delivery preferences relating to user content to be delivered at a future

time, wherein the set of user content delivery preferences comprises at least one of delivery time and delivery cost". Melaku is concerned with quality of service ("QoS") and not with user specification of delivery time and delivery cost. Accordingly, Melaku neither describes nor suggests "user content delivery preferences" as that term is used in claim 54. Further, and as a result, the remaining subject matter of claim 54 which is dependent on the presence of "user content delivery preferences" cannot be described or suggested by Melaku.

For the foregoing reasons Applicant submits that claim 54 is patentable over the art of record. Applicant therefore respectfully requests that the rejection of claim 54 be withdrawn.

Applicant further requests that the rejection of dependent claims 60 – 63 and 67 – 68 be withdrawn both since these claims depend from an allowable base claim and for reasons having to do with their independently-recited features.

B. Rejection of Claims 50 – 59 and 64 – 66 under 35 U.S.C. § 103(a)

Applicant respectfully submits that Steinberg and Tamura do not remedy the above-identified limitations of Melaku. Accordingly, claims 50 – 59 and 64 - 66 are patentable as depending from allowable base claims and for reasons having to do with their independently-recited features.

C. New Claims 69 - 76

Applicant has added new claims 69 – 76. Claim 69 finds support throughout the application as filed, *see*, for example page 6, line 19 – page 7, line 29. Claim 76 finds support throughout the application as filed, *see*, for example, page 6, line 21. Claims 69 and 73 find support at page 2, lines 19 – 24 and page 17, lines 1 – 8. Claims 70 and 74 find support at page 16, lines 2 – 3. Claims 71 and 75 find support at page 2, lines 30 – 32. Applicant respectfully submits that claims 69 – 76 are patentable for reasons similar to claim 54 and for reasons having to do with their independently-recited features. Applicant therefore requests that these claims be allowed.



III. Conclusion

Applicant submits that in light of the foregoing remarks the application is now in condition for allowance. Applicant therefore respectfully requests that the outstanding rejections be withdrawn and that the case be passed to issuance.

Respectfully submitted,

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Date

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